

§ 423.2112

limit its consideration of the ALJ's action to those exceptions raised by CMS or the IRE.

(d) *MAC's action.* (1) If the MAC decides to review a decision or dismissal on its own motion, it will mail the results of its action to the enrollee and to CMS or the IRE, as appropriate.

(2) The MAC may adopt, modify, or reverse the decision or dismissal, may remand the case to an ALJ for further proceedings or may dismiss a hearing request.

(3) The MAC must issue its action no later than 90 calendar days after receipt of the CMS or the IRE referral, unless the 90 calendar day period has been extended as provided in this subpart.

(4) The MAC may not issue its action before the 20 calendar day comment period has expired, unless it determines that the agency's referral does not provide a basis for reviewing the case.

(5) If the MAC declines to review a decision or dismissal on its own motion, the ALJ's decision or dismissal is binding.

§ 423.2112 Content of request for review.

(a)(1) The request for MAC review must be filed with the entity specified in the notice of the ALJ's action.

(2) The request for review must be in writing and may be made on a standard form, except for requests for expedited reviews which may be made orally.

(3) The MAC must document all oral requests in writing and maintain the documentation in the case file.

(4) A written request that is not made on a standard form or, for expedited requests, an oral request, is accepted if it includes the enrollee's name and telephone number, the plan name; Medicare health insurance claim number; the ALJ appeal number; the specific Part D drug(s) for which the review is requested; a statement that the enrollee is requesting an expedited review, if applicable; and the name and signature of the enrollee or the representative of the enrollee.

(b) The request for review must identify the parts of the ALJ action with which the enrollee requesting review disagrees and explain why he or she disagrees with the ALJ's decision, dis-

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missal, or other determination being appealed.

(c) The MAC will limit its review of an ALJ's actions to those exceptions raised by the enrollee in the request for review, unless the enrollee is unrepresented. For purposes of this section only, a representative is either anyone with a valid appointment as the enrollee's representative or is a member of the enrollee's family, a legal guardian or an individual who routinely acts on behalf of the enrollee, such as a family member or friend who has a power of attorney.

§ 423.2114 Dismissal of request for review.

The MAC dismisses a request for review if the enrollee requesting review did not file the request within the stated period of time and the time for filing has not been extended. The MAC also dismisses the request for review if—

(a) The enrollee asks to withdraw the request for review;

(b) The individual or entity does not have a right to request MAC review; or

(c) The enrollee died while the request for review is pending and the enrollee's estate or representative, if any, either has no remaining financial interest in the case or does not want to continue the appeal.

§ 423.2116 Effect of dismissal of request for MAC review or request for hearing.

The dismissal of a request for MAC review or denial of a request for review of a dismissal issued by an ALJ is binding and not subject to further review unless reopened and vacated by the MAC. The MAC's dismissal of a request for hearing is also binding and not subject to judicial review.

§ 423.2118 Obtaining evidence from the MAC.

An enrollee may request and receive a copy of all or part of the record of the ALJ hearing, including the exhibits list, documentary evidence, and a copy of the CD of the oral proceedings. However, the enrollee may be asked to pay the costs of providing these items. If an enrollee requests evidence from the MAC and an opportunity to comment